



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No. 10549-24
Docket No. 10556-24
Docket No. 10561-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 14 January 2025. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies, as well as the 11 September 2024 decisions by the Marine Corps Performance Evaluation Review Board (PERB) and the 24 July 2024 Advisory Opinions (AOs) provided to the PERB by the Performance Evaluation Section (MMPB-23). Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove your fitness reports for the following reporting periods ending on 31 January 2021, 22 March 2021, and 13 May 2021. The Board considered your contentions that the contested fitness reports are unjust and potentially biased. First, you contend you received the fitness report for the period ending on 31 January 2021 and noticed a decline in your performance ratings in sections D-H. You claim the Reporting Senior (RS) attributed the decline to your sub-par performance, and you further assert you never received any informal or formal counseling regarding your performance. You also claim that during the reporting periods, you had an active Prohibited Activities and Conduct (PAC)

complaint against the RS. You further claim the RS made numerous homophobic remarks and comments against your gender and sexual orientation. You also assert that on 21 December 2020, you reported to the Reviewing Officer (RO) your concerns about the RS's inappropriate comments regarding your sexuality and expressed worry about the RS continuing to evaluate you. You further claim that despite an informal conflict resolution conducted by the RO in January after the Holiday 96, the issues with the RS remained unresolved and pursuant to the Performance Evaluation System (PES) Manual, shall be implemented to ensure Marines are fairly evaluated and not disadvantaged because of their race, color, sex, gender, gender identity, sexual orientation, or national origin. Next, you assert that you were attached to ██████████ for 12 months, and your initial fitness report showed positive remarks and a positive trend. The Board also considered your claims that since leaving the command and being provided a new RS, your fitness report markings have shown to be well above standard and exhibit a positive trend in performance and character. You claim that two attempts were made by the RO to correct the issues between you and the RS, which failed to produce a positive outcome. You assert that you spent 21 months serving outside Aviation Supply as a Maintenance Officer and performed admirably in your new command, as noted in all fitness reports post ██████████. Lastly, you claim that to the outside eye, the fitness report ending on 13 May 2021 gives the impression that you failed as an Aviation Supply Officer when, in reality, the contested fitness reports were being written by an RS who was the subject of numerous PAC violations.

The Board, however, substantially concurred with the PERB's decisions that you did not meet the burden of proof nor shown by preponderance of evidence a substantive inaccuracy or injustice warranting removal of your fitness reports. The Board determined that your fitness reports are valid as written and filed in accordance with the applicable Marine Corps PES Manual. In this regard, the Board noted pursuant to the PES Manual, the perceived competitiveness of a report's relative value or comparative assessment mark is not a valid basis for removing or modifying the report and a report is not considered unjust solely because it is rated lower than others. Additionally, a personality conflict between the applicant and a reporting official does not automatically constitute grounds for relief, and statements attacking the motives, integrity, and competence of the reporting officials require referral to those individuals for their comments. Next, the Board noted that your performance ratings under the RS did not decrease compared to either previous or subsequent evaluations. Additionally, the Board determined your grade change report, due to your promotion to First Lieutenant, further invalidating your claims as you were no longer competing against other Second Lieutenants. Next, the Board determined other than your statement, you failed to provide supporting evidence concerning your complaints against the RS or any additional PAC complaints. Furthermore, the Board determined your comparison of ratings from different RS in different commands suggests a potential misunderstanding of how RS assessments are typically evaluated. Moreover, you did not provide favorable endorsements from the reporting officials.

Lastly, the Board noted different RSs have unique marking philosophies, which they use to measure the efforts and abilities of Marines across various attributes. The grades are earned by the Marine's displayed efforts and apparent results, not given to attain a perceived fitness report average or relative value. The PES Manual highlights past performance and is not a counseling


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tool. Counselings and the PES are separate but complementary processes, were counseling shapes future performance. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. Accordingly, given the totality of the circumstances, the Board determined that your requests do not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

2/26/2025

